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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
POLLACK, MELVIN H	

ART UNIT	PAPER NUMBER
2145	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/791,566	ELFNER, AXEL E.	
	Examiner	Art Unit	
	MELVIN H. POLLACK	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☒ Other: *see attached office action*.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 17 November 2007 have been fully considered but they are not persuasive. An analysis of the arguments is provided below.

2. The examiner withdraws the 101 rejection in light of the amendment.

3. The examiner interprets the independent claim 1 as follows: an undisclosed mechanism performs a request (check step) and receives the requested information (retrieval step). Since the mechanism is remote to the server's LAN, dependent claims identify an intermediate proxy server that performs the periodic checking. This is analogous to the majority of both content server and mail server systems – there is an upstream communication (request) and a downstream communication (response) in the majority of cases. Thus so it is in both Afergan's pull content system and Yoshida's pull mail system.

4. Applicant admits that the upstream communication is a request for content. Several paragraphs in Afergan would seem to indicate that the content is sent (downstream) in response. Applicant also admits not only that Yoshida sends mail downstream, but that it does so in response to a check from a client-side mail server in a separate domain from the central mail server. Clearly, this request is an upstream communication. (See P. 8 of remarks). Therefore, applicant's claim about the inability to combine is prima facie rebutted.

5. In the alternative response to applicant's argument that an upstream communication cannot be combined with a downstream communication, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the

references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Thus, even if Afergan taught only requests and not responses, and even if Yoshida taught only responses and not requests, this fact alone would still be insufficient to rebut a reason to combine. Indeed, in such a situation, a person of ordinary skill in the art would seek out art about the missing communication in order to implement either piece. The existence of one would suggest to one of ordinary skill in the art the required existence of the other. In light of the prior action's statements of analogousness (both include mail servers in a secured LAN for the purposes of protecting the server) and the prior action's statement of motivation (Yoshida improves on Afergan's security techniques), the combination is clearly obvious.

6. As for claim 2, applicant claims that Afergan does not expressly disclose that the connection is over an available port, defined as one not blocked by a firewall (P. 9). "Typically, an installation will require implementation of IP ACLs on the downstream firewall and IP spoofing protection on the upstream router.... Preferably, the setting of IP ACLs is done on all ports. This generally requires that the site have dedicated servers running the web servers and that there be a separate firewall upstream of these servers. If this is not possible, then IP ACLs should be implemented for web server ports 80 and 443, and it is also desirable in such a case to block any unnecessary ports (Paras. 31-32)." This is part of the office action (Para. 5, the final line).

7. Therefore, the rejection is maintained for the reasons above. This rejection is final.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1-6, 8, 10, 11, 13-18, 20-27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Afergan et al. (2004/0010601) in view of Yoshida (2004/0049546).

10. Afergan teaches a method and system (abstract) of sending communications from a data structure in a restricted network (Paras. 1-20), and receiving communications by an external communications unit the communications (Paras. 21-24), the receiver being an intermediary (Paras. 25-26), the data structure including a mail server (Para. 28). In this way, only the external communications network may receive communications from the restricted network (Paras. 27-30), and only via the available port (Paras. 31-39).

11. Afergan does not expressly disclose the checking to see if mail should be delivered, whether by the external communications network or by the internal restricted network program. Yoshida teaches a method and system (abstract) of mail delivery (Paras. 1-23) to an intermediary from a server on a restricted network (Paras. 24-26) that comprise the missing limitations (Paras. 27-51). At the time the invention was made, one of ordinary skill in the art would have added Yoshida's system to flesh out Afergan's mail server functionality and to reduce Afergan's mail server loads (Para. 5).

12. Claims 7, 19 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Afergan and Yoshida as applied to claims 1, 4, 6, 13, 16, 18, 22, 25, and 27 above, and further in view of Banister et al. (7,219,131).

13. Afergan and Yoshida do not expressly disclose using a queue program to receive mail from another program. Yoshida teaches a method and system (abstract) of determining e-mails for appropriate delivery (col. 1, line 1 – col. 5, line 65; col. 20, line 33 – col. 28, line 25) that includes delivery decision making procedures (col. 5, line 65 – col. 20, line 33), and includes the queuing procedure (col. 10, line 50 – col. 12, line 40). At the time the invention was made, one of ordinary skill in the art would have added these features in order to protect from the security problem known as spam (col. 2, line 50 – col. 3, line 5).

14. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Afergan and Yoshida as applied to claims 1, 8 above, and further in view of Mizuno et al. (2006/0031927).

15. Afergan and Yoshida do not expressly disclose that the receiver is an intended recipient. Mizuno teaches a method and system (abstract) of transferring communications data (Paras. 1-25) from a restricted network to an external server (Paras. 26-30) that includes this limitation (Paras. 31-34). At the time the invention was made, one of ordinary skill in the art would have added Mizuno in order to improve seamless access to files behind an Afergan firewall (Paras. 13-14).

16. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Afergan and Yoshida as applied to claims 1, 8, 11 above, and further in view of Clarke et al. (7,043,240).

17. Afergan and Yoshida do not expressly disclose that the manner in which a message is sent to a receiver is dependent on the type of receiver. Clarke teaches a method and system (abstract) of providing the messages (col. 1, line 1 – col. 3, line 55) that comprise the limitations (col. 3, line 55 – col. 7, line 30). At the time the invention was made, one of ordinary skill in the art would have combined the inventions in order to handle a variety of protocols (col. 1, lines 15-55).

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELVIN H. POLLACK whose telephone number is (571)272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. H. P./
Examiner, Art Unit 2145
25 January 2008

Melvin H Pollack
Examiner
Art Unit 2145

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145